



STATE OF INDIANA

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April 6, 2009

Paul Allor
718 West Mulberry Street; Apt. 5
Kokomo, Indiana 46901

*Re: Informal inquiry 09-INF-14 regarding the Kokomo-Howard County
Governmental Coordinating Council*

Dear Mr. Allor:

This advisory opinion is in response to your informal inquiry dated March 12, 2009. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry.

You write regarding the Open Door Law (“ODL”) (Ind. Code 5-14-1.5). You inquire whether the Citizens Advisory Committee on Public Transit (“CAC”) created by the Kokomo-Howard County Governmental Coordinating Council (“Council”) is subject to the ODL. You indicate that the Council’s governing body is the Policy Board. Both the Policy Board and a committee it created, the Technical Advisory Committee, are subject to the ODL. You indicate that, pursuant to its bylaws, the Council has created a Citizens Advisory Committee on Public Transit. As chairman of the CAC, you inquire whether it is subject to the ODL. You indicate the CAC is not a policy-making board. Its functions are to receive information, study issues, and make recommendations to the Technical Advisory Committee and the Policy Board.

All meetings of the governing body of a public agency must be open at all times so members of the public may observe and record them. I.C. § 5-14-1.5-3(a). The question then is whether the CAC is a governing body of a public agency. You indicate that the Council is a public agency, pursuant to I.C. § 5-14-1.5-2. I assume that the CAC is not subject to audit by the State Board of Accounts. I also assume the CAC was not created by statute, ordinance, or executive order. If these assumptions are correct, the CAC does not fall under the definition of “public agency” found in I.C. § 5-14-1.5-2(a). In other words, the CAC is not a stand-alone public agency.

The CAC may be subject to the ODL, though, if I.C. § 5-14-1.5-2(b) declares it a governing body of a public agency. Pursuant to I.C. § 5-14-1.5-2(b),

- (b) "Governing body" means two (2) or more individuals who are:
- (1) a public agency that:
 - (A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and
 - (B) takes official action on public business;
 - (2) the board, commission, council, or other body of a public agency which takes official action upon public business; or
 - (3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this chapter.
- Id.*

The relevant provision for the present issue is I.C. § 5-14-1.5-2(b)(3). You indicate the CAC is appointed by the Council, which is a governing body of a public agency. You indicate the CAC is charged with receiving information, studying issues, and making recommendations to the Technical Advisory Committee and ultimately to the Policy Board. Based on the definition of "official action," the CAC has been delegated authority to take official action upon public business. *See* I.C. § 5-14-1.5-2(d), defining "official action."

For the foregoing reasons, it is my opinion the CAC is a governing body and as such is subject to the requirements of the ODL.

Please do not hesitate to contact me if I can provide any further assistance.

Best regards,



Heather Willis Neal
Public Access Counselor